

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

BENJAMIN REYNOLDS,

Defendant.

Case No. 1:19-cv-05631-MKV

**DECLARATION OF KYONG J. KOH
PURSUANT TO 28 U.S.C. § 1746**

I, Kyong J. Koh, hereby make the following declaration:

I. BACKGROUND

1. I have personal knowledge of the following facts and, if called as a witness, could and would testify competently thereto.

2. I am employed as a Futures Trading Investigator in the Division of Enforcement (“Division”) of the Commodity Futures Trading Commission (“Commission”). I have held this position since December 1997. Prior to joining the Division, I received a Bachelor of Science degree in Finance from The University of Maryland and a Masters of Business Administration (M.B.A.) from The Pennsylvania State University.

3. My responsibilities as a Futures Trading Investigator include the investigation of registered and unregistered commodity trading firms and individuals located throughout the United States and abroad, in order to ensure compliance with and enforcement of the Commodity Exchange Act and the rules and regulations promulgated thereunder. Throughout my career with the Division, I have analyzed and reviewed bank records, commodity futures and foreign

currency trading records, and other financial documents.

4. I am one of the Futures Trading Investigators assigned to the Commission's investigation and litigation of this matter.

5. I understand that the Commission has filed a Motion for Entry of Final Judgment by Default, Permanent Injunction, Civil Monetary Penalty, and Other Statutory and Equitable Relief against Defendant Benjamin Reynolds (the "Motion"). I submit this Declaration pursuant to 28 U.S.C. § 1746 in support of the Commission's Motion.

II. SUMMARY

6. As part of my investigatory responsibilities in this matter, I reviewed and analyzed a variety of documents relating to Benjamin Reynolds ("Reynolds") and Control-Finance Limited ("Control-Finance"). These documents included materials provided by customers of Reynolds and Control-Finance and public documents obtained from the Internet, including materials from the website www.control-finance.com (the "Control-Finance Website") as well as social media websites like Facebook and LinkedIn.

7. In addition to reviewing documents, along with other Division staff, I participated in numerous telephonic interviews with customers who invested Bitcoin with Reynolds and Control-Finance and corresponded with those customers via email. I personally interviewed and/or communicated with David Regan, Alvin Lewis, Shane Boulware, Michael Anthony, and Daniel Stratton, among other customers. True and correct copies of signed declarations provided to the Commission by each of the foregoing customers (along with supporting attachments) are attached hereto as Exhibits 1 through 5.

8. My analysis following my review of documents and my discussions with customers of Reynolds and Control-Finance revealed the following information, as more fully

detailed in this Declaration:

- a. From at least May 1, 2017 through October 31, 2017 (the “Relevant Period”), Reynolds and Control-Finance solicited customers to transfer Bitcoin (“BTC”) to them for the purpose of trading and to earn passive returns through an affiliate marketing system. Customers initiated transfers of Bitcoin to Reynolds and Control-Finance by selecting a “deposit” option on the Control-Finance Website.
- b. During the Relevant Period, Reynolds and Control-Finance received Bitcoin deposits from more than 1,000 customers worldwide, including at least 169 who reside within the United States. Of the 169 customers who reside within the United States, at least two of them reside in New York. Of the two customers who reside in New York, at least one of them resides in this District.
- c. One of the services advertised by Reynolds and Control-Finance was an “affiliate marketing system” pursuant to which customers (who Reynolds and Control-Finance described as “Affiliates”) were incentivized with Bitcoin referral rewards and bonuses to recruit additional investors. Reynolds and Control-Finance enticed customers to advertise the Control-Finance scheme by posting referral hyperlinks on Internet websites such as YouTube, Facebook, and Twitter. Reynolds and Control-Finance represented that they would pay Affiliates Bitcoin rewards and bonuses if new customers clicked on an Affiliate’s referral hyperlink and deposited Bitcoin with Control-Finance.

- d. When customers requested Bitcoin account withdrawals, Reynolds and Control-Finance paid them using the diverted principal deposits of other customers.
- e. During the Relevant Period, Reynolds and Control-Finance represented in their solicitations that they employed expert virtual currency traders who would achieve guaranteed trading profits for customers. My analysis further revealed that Reynolds and Control-Finance did not obtain profits for their customers, Reynolds and Control-Finance conducted no trading on behalf of their customers, and Reynolds and Control-Finance did not return the Bitcoin that customers deposited with them.
- f. During the Relevant Period, Reynolds and Control-Finance also published “Trade Reports” that purported to show profits from their virtual currency trading that did not in fact exist.

9. During the course of my investigation, I did not encounter a single Control-Finance customer who received a net profit as a result of depositing Bitcoin with Reynolds and Control-Finance. Every single customer I have spoken or corresponded with has claimed to have incurred monetary losses as a result of depositing Bitcoin with Reynolds and Control-Finance.

III. DOCUMENTS REVIEWED

10. As stated above, during the course of investigating this matter, I participated in telephonic interviews of individuals who transferred Bitcoin to Reynolds and Control-Finance. I also reviewed and analyzed the following documents and information:

- a. Declarations with accompanying attachments signed by David Regan, Alvin Lewis, Shane Boulware, Michael Anthony, and Daniel Stratton

(attached hereto), all of whom were customers of Reynolds and Control-Finance;

- b. Numerous documents submitted to the Commission by other customers of Reynolds and Control-Finance;
- c. Archived copies of the Control-Finance Website;
- d. Archived copies of social media accounts created and/or used by Reynolds and Control-Finance, including at Facebook, LinkedIn, and YouTube;
- e. Registration records maintained by the National Futures Association (“NFA”), the self-regulatory organization for the United States commodity futures industry to which the Commission has delegated registration responsibility pursuant to Commission Regulation 3.2, 17 C.F.R. § 3.2 (2019);
- f. Corporate formation documents for Control-Finance that Reynolds filed with the Registrar of Companies for England and Wales (the “U.K. Registrar”);
- g. Internet domain name registration records for the Control-Finance Website; and
- h. Additional materials obtained through Division investigative efforts.¹

IV. FINDINGS

The Formation of Control-Finance

11. Control-Finance is a now-defunct United Kingdom private limited company that was organized by Reynolds and incorporated by the U.K. Registrar on September 8, 2016. In the

¹ To reduce the volume of this submission, unless otherwise indicated the foregoing documents and materials (many of which are described in detail in this Declaration) are not attached as exhibits. However, the Commission will provide the documents to the extent the Court would like to review them.

documents that Reynolds submitted to the U.K. Registrar to establish Control-Finance (which are publicly available through the U.K. Registrar's website, <https://www.gov.uk/government/organisations/companies-house>), he represented that Control-Finance retained its principal place of business at 17 Marble Street, Manchester, Greater Manchester, England M2 3AW.

12. In those same documents, Reynolds represented himself to be a United Kingdom national residing in Manchester, England, Control-Finance's sole Director, and the sole owner of 100% of Control-Finance's 1,000 equity shares. On September 6, 2016, Reynolds registered the Control-Finance Website in his own name. Internet domain name registration records that I retrieved and reviewed state that the Internet Protocol location of the Control-Finance Website was San Francisco, California. Those records also list Control-Finance's address as 17 Marble Street, Manchester, Greater Manchester, England M2 3AW.

13. According to records provided to the Commission by the NFA, neither Control-Finance nor Reynolds has ever been registered with the Commission in any capacity.

The Control-Finance Website and Solicitation of Investors

14. As part of the Commission's investigation of this matter, Division staff retrieved archived copies of the Control-Finance Website by using an Internet archive service. Those records show that during the Relevant Period, the main page of the Control-Finance Website displayed the following statements, among other information:

- a. "Control Finance already has 58474 clients"
- b. "We are entrusted with 123089890.44 \$"
- c. Under the heading "SPEED": "Funds are credited instantly in automatic mode. An instant payment mode is available for funds withdrawal."

- d. Under the heading “AFFILIATE PROGRAM”: “Already got your affiliate team? Then prepare to see your profit skyrocket!”
- e. Under the heading “Up to 35% from your affiliate structure”: “You earn up to 25% of the deposit for every first-tier referral.”
- f. Under the heading “Set up your team”: “The 7-tier affiliate structure lets you earn passive income from every deposit.”
- g. Under the heading “Continual informational support”: “Any investor can become an official representative with a deposit of just \$300. You get access to a dedicated section for working with new affiliates and expanding your team.”
- h. Under the heading “Recent news”: “Our specialists monitor everything that is happening in the world of cryptocurrency.”
- i. “Open an account and start earning a passive income daily. The activity of your referrals will guarantee you a comfortable livelihood.”

15. The bottom of the main page of the Control-Finance Website provided a “Contacts” section. The “Address” identified under the “Contacts” heading was 17 Marble Street, Manchester, Greater Manchester, England M2 3AW. This is the same address that Reynolds used to organize Control-Finance before the U.K. Registrar and to establish the Internet domain name of the Control-Finance Website.

16. The “Contacts” section of the Control-Finance Website also provided a Skype Voice-Over-IP contact username: “reynoldsbenjamin34.”

17. The “Contacts” section of the Control-Finance Website also provided two email addresses: support@control-finance.com, and admin@control-finance.com. Reynolds used the

admin@control-finance.com email address when registering the Internet domain name for the Control-Finance Website.

18. During the Relevant Period, the Control-Finance Website also included a page entitled “About the company” that contained the following statements, among other information:

- a. “Our clients have the opportunity to gain profit from trading various cryptocurrency pairs through the activities of our experts on well-known exchanges such as Poloniex, BTC-e, Bitfinex, Bitstamp, and others.”
- b. Under the heading “Our mission statement”: “[W]e give anyone the opportunity to make a profit just by becoming an affiliate of our company.”

19. The “About the company” page of the Control-Finance Website provided .pdf images of and hyperlinks to the Control-Finance corporate formation documents that Reynolds submitted to the U.K. Registrar and that are referenced in paragraphs 11 and 12 above.

20. During the Relevant Period, the Control-Finance Website also included a page entitled “Getting started” that contained the following statements, among other information:

- a. “Anyone can make investments using our website. The interface is so easy to use that even someone with zero experience can figure it out. In addition, our experts are available online 24/7 and are always ready to help.”
- b. Under the heading “Confirmation”: “If you performed a Bitcoin transaction, this step may require some patience. This is because the Bitcoin network requires three confirmations, and no one can speed up this process.”

- c. Under the heading “Receive money”: “Manage your earnings: either withdraw or reinvest.”
- d. Under the heading “Profit”: “In just 24 hours after you make a deposit, you will see your first earnings credited. This is an automatic operation that happens at the same time each day.”

21. During the Relevant Period, the Control-Finance Website included an additional page entitled “News” that contained the following statements and information, among other information:

- a. “Our specialists monitor everything that is happening in the world of cryptocurrency. You can find out about the most important events in our news feed.”
- b. The “News” page offered three Facebook “contests,” dated July 7, August 4, and September 1, 2017. Each “contest” offered to pay participants Bitcoin “Prizes” in exchange for sharing the contest announcement with other Facebook users. The contests also encouraged winners to “be ready to post a video about your win.”
- c. A “news” entry dated August 1, 2017 under the heading “Affiliate Program Expansion to 7 Tiers” provided the following: “We are pleased to announce the long-awaited expansion of our affiliate program. Now it includes 7 tiers. For the 6th and 7th tiers the remuneration will equal 1% and 0.5% of invited referrals’ deposits, correspondingly.”
- d. A “news” entry dated July 21, 2017 under the heading “Video-Report on Our Achievements and Plans for the Company Development” provided

the following: “Our specialist team of traders has developed a secure scheme for working with cryptocurrency exchanges, applying a diversification method by increasing the number of trading accounts on new cryptocurrency exchanges such as Bitfinex, Bitstamp and Okcoin. This would enable us to safely increase our raised funds to \$60 million as working capital within the next six months.”

- e. A “news” entry dated July 19, 2017 under the heading “A premonition of hardfork in the safe haven of Control Finance” provided the following: “The next two weeks are likely to mark the culmination of lengthy discussions about Bitcoin’s future. Many investors are always asking us whether we are ready for this and what the company’s customers should do? The answer is simple – risk diversification and proper allocation of your assets. Our company’s balance is calculated in U.S. dollars, so we recommend you invest right now, and you will be protected from possible bifurcation of the blockchain network. Our team has already prepared for possible volatility in the market. We are planning to buy bitcoin from about \$1200 to \$1900. By the end of the month, Altcoins [virtual currencies other than Bitcoin] will make up the bulk of our portfolio.”
- f. A “news” entry dated July 13, 2017 under the heading “First Update in Affiliate Program” provided the following: “In response to numerous requests made by our partners, we deployed the 1st planned upgrade of our affiliate program. Now you will receive affiliate remuneration in full for every deposit replenishment made by your referral. Now it has

become even more profitable for you to invest your profit and bonuses.”

- g. A “news” entry dated June 23, 2017 under the heading “Investments of our partners are now secured” provided the following: “Today, Control Finance introduced a number of security enhancements for personal customer accounts. . . . Control Finance takes care of the funds of each client. We focus not only on generating profit but also on preserving your investments.”
- h. A “news” entry dated June 1, 2017 under the heading “Limited time special offer – Bitcoin rushes up! We’re adding an interest of 5% to deposits!” provided the following: “We are adding an interest of 5% to each deposit to be made before the 9th of June, 2017.”

22. During the Relevant Period, the Control-Finance Website included another page entitled “Investment offer” that provided a graphic setting forth a “Minimum deposit” of \$10, a “Maximum deposit” of \$50,000, a “Standard rate” of 1%, and a “Term of deposit” of “for lifetime.” The “Investment offer” page of the Control-Finance Website also contained the following statements and information:

- a. A graphic reflecting escalating profits, of 1.10% for total deposits of \$300, to 1.50% for total deposits of \$10,000.
- b. A calculator tool that purported to allow users to “CALCULATE YOUR PROFIT” by inputting deposit amounts that supposedly yielded daily, weekly, monthly, and yearly earnings.
- c. Under the heading “HOW DO I MAKE A PROFIT WITHOUT INVESTMENTS?”, the following: “You can make a profit without

making any investments. To do this, you need to create your own affiliate team.”

23. Based on interviews with Control-Finance customers (*see* paragraphs 7-8 above) and related materials, and contrary to the representations by Reynolds identified in paragraphs 14, 18, 20, 21, and 22 above, Reynolds and Control-Finance did not trade Bitcoin on customers’ behalf, did not employ expert traders or specialists, did not pay referral rewards or bonuses, and retained customers’ Bitcoin deposits for their own personal use.

The Affiliate Marketing Pyramid Scheme

24. During the Relevant Period, the Control-Finance Website also included a page entitled “OFFICIAL REPRESENTATIVES” that stated, among other things, “Official representatives enjoy upgraded conditions of the affiliate program (the 2nd tier of the affiliate program: 15%-5%-3%-1%-1%).” The “OFFICIAL REPRESENTATIVES” page of the Control-Finance Website contained the following additional statements and information:

- a. Under the heading “WHO REPRESENTATIVES ARE,” the following:
“So who are representatives? Representatives are all our affiliates and investors. Our support program allows every investor to ask representatives questions in their native language.”
- b. Under the heading “HOW TO BECOME A REPRESENTATIVE,” the following: “Anyone who opens their own deposit account with a minimum of \$300 and gets authorized can become a representative.”
- c. Under the heading “ADVANTAGES OF THE PROGRAM,” the following: “Every customer can use your representative referral link, which gives you a commission.”

- d. The “OFFICIAL REPRESENTATIVES” page of the Control-Finance Website also provided drop-down menus of Control-Finance “REPRESENTATIVES” from more than 70 countries. Clicking on a country list revealed contact information, including telephone and email address, for Control-Finance representatives/affiliates for that country. Clicking on the United States drop-down menu revealed the contact information for approximately 169 representatives/affiliates identified as being located in the United States.

25. During the Relevant Period, the Control-Finance Website included an additional page entitled “Premium & VIP”. Among other things, the page stated, “VIP-clients are offered special service conditions, custom-tailored bonus programs, as well as other privileges.” The “Premium & VIP” page also offered “VIP” clients the option to engage in “Private Telegram chat[s]” with “our company’s CEO,” “Bonuses from 3% to 15%” for “every deposit starting from \$ 300,” and an “automatic payments” option.

26. During the Relevant Period, the Control-Finance Website also included a page entitled “Promo materials” that stated, “Our experts have created effective advertising materials for promoting our company. Clients can use our ads on their own internet resources or use the brandbook for promotional events.” The “Promo materials” page also contained downloadable “banners,” which were hyperlinks that could be posted to Internet websites, as well as a downloadable “Brandbook,” which provided guidance for creating Control-Finance marketing materials. The downloadable banners themselves contained numerous statements, including the following:

- a. “EARN UP TO 1.5% DAILY!”;

- b. “AFFILIATE BONUS OF UP TO 35% OF DEPOSIT!”;
- c. “\$10 MINIMUM DEPOSIT”;
- d. “TRUSTED BY THOUSANDS OF CUSTOMERS”; and
- e. “REAL COMPANY WITH REAL TRADING.”

27. Based on interviews with Control-Finance customers (*see* paragraphs 7-8 above) and related materials, and contrary to the representations by Reynolds identified in paragraphs 24-26 above, Control-Finance customers did not receive the promised bonus payments or referral rewards. Instead, Reynolds and Control-Finance obtained customers’ Bitcoin deposits and then retained such deposits for their own personal use.

Trade Reports

28. Reynolds and Control-Finance posted weekly “Trade Reports” on the Control-Finance Website that Reynolds and Control-Finance represented as detailing the virtual currency trades that they placed on behalf of their customers during the week covered by the trade report. During the Relevant Period, the “Trade reports” page of the Control-Finance Website represented, “Our team consists of professional traders using the following currency pairs: BTC/USD, ETH/BTC, ETC/BTC, LTC/USD, and other Altcoins [virtual currencies other than Bitcoin]. All of our clients’ funds are used in real trading activities without exception.”

29. The “Trade reports” page of the Control-Finance Website included a summary of the Control-Finance Trade Report dated July 7, 2017 through July 23, 2017. In discussing expected volatility in the Bitcoin market relating to the SigWit2x “hard fork,” the summary stated, “I would like to again remind our customers to please not worry. Your money is safe.”

30. The “Trade reports” page of the Control-Finance Website also included a summary of the Control-Finance Trade Report dated August 7, 2017 through August 13, 2017.

Among other statements, the summary provided, “This working week was marked by a fantastic increase in Bitcoin price. The price grew by \$1,000 within days, which enabled us to achieve excellent results. Before August 21, we expect to trade within the range of \$3,800-\$4,500. After activation of the SegWit protocol, the price should soar to \$5,000.”

31. Based on interviews with Control-Finance customers (*see* paragraphs 7-8 above) and related materials, and contrary to the representations by Reynolds identified in paragraphs 28-30 above, Reynolds and Control-Finance did not trade Bitcoin on customers’ behalf and instead retained customers’ Bitcoin for their own benefit.

The Control-Finance Social Media Accounts

32. In addition to the Control-Finance Website, Reynolds and Control-Finance also maintained a LinkedIn social media webpage during the Relevant Period. Among other statements, the Control-Finance LinkedIn page contained the following representations:

- a. “Control Finance 45% per month – Up to 1.5% every single day.”
- b. “Control Finance Investment. You get a profit up to 1.5% every single day!”

33. The Control-Finance LinkedIn webpage also provided a link to a Facebook page for Control-Finance. During the Relevant Period, the Control-Finance Facebook page contained the following representations, among other statements:

- a. “We help our clients earn money on the volatility of the cryptocurrency market. Today, this is an industry with a market capitalization of \$30 billion.”
- b. “Earn 1.5% every single day. Passive income. Bitcoin investment. Trade Reports.”

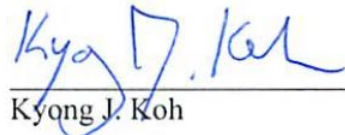
34. Based on interviews with Control-Finance customers (*see* paragraphs 7-8 above) and related materials, and contrary to the representations by Reynolds identified in paragraphs 32 and 33 above, Control-Finance customers did not receive the promised Bitcoin profits or referral rewards. Instead, Reynolds and Control-Finance obtained customers' Bitcoin deposits and then retained such deposits for their own personal use.

Termination of Operations

35. According to interviews with Control-Finance customers (*see* paragraphs 7-8 above) and based on my review of related materials, in or around September 2017, Reynolds shut down the Control-Finance Website and removed the majority of content from Control-Finance's social media accounts.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of August, 2020.


Kyong J. Koh

Futures Trading Investigator